

TALLEY GROUP LIMITED
TERMS AND CONDITIONS FOR THE HIRE OF GOODS

1. INTERPRETATION

1.1. In these terms and conditions (**Terms**) the following words have the following meanings:

Delivery	the transfer of physical possession of the Hire Goods to You at the Premises.
Event Outside Our Control	means any act or event beyond Our reasonable control, including without limitation strikes, lock-outs or other industrial action, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks.
Customer/You/Your	the person, firm or company hiring the Hire Goods.
Hire Goods	any goods and / or accessories that You hire from Us.
Hire Period	<p>the period commencing on Delivery and ending on the earlier happening of any of the following events:</p> <ul style="list-style-type: none">(i) the physical return of the Hire Goods by You into the Company's possession;(ii) the physical repossession or collection of Hire Goods by the Company; or(iii) notification by You for Us to collect the Hire Goods.
Minimum Hire Period	is defined in clause 2.13.
Order	Your order for the Hire Goods.
Premises	Your place of business or residency or such other location as set out in the Order where Delivery is to take place.
Rental	the Company's daily charging rate for the hire of the Hire Goods from time to time during the Hire Period.
Services	the services and/or work (if any) to be performed by Us for You in conjunction with the hire of Hire Goods including delivery, installation and/or collection of the Hire Goods.
We/Our/Us/Company:	Talley Group Limited, Premier Way, Abbey Park Industrial Estate, Romsey, Hampshire SO51 9DQ.

1.2. When We use the words "writing" or "written" in these Terms, this will include e-mail unless We say otherwise.

2. OUR CONTRACT WITH YOU

- 2.1. These are the Terms on which We supply Hire Goods to You. These Terms apply to Orders placed face to face at the Premises, via telephone, in writing, via fax or via Our website to the exclusion of all other terms and conditions including any terms or conditions which You seek to apply under any purchase order, confirmation of order, course of dealing or similar document, or which are implied by trade, custom, practice or course of dealing.
- 2.2. Each Order shall be an offer by You to hire the Hire Goods and these Terms shall apply.
- 2.3. When You sign or submit the Order to Us, this does not mean We have accepted Your Order. Our acceptance of the Order will take place as described in clause 2.4. If We are unable to supply You with the Goods, We will inform You of this and We will not process the Order.
- 2.4. The Order shall only be deemed to be accepted by the Company when We issue a written acknowledgement of the Order or, if earlier, We deliver the Hire Goods to You, at which point a contract will come into existence between You and Us (the **Contract**).
- 2.5. Each order of an item of Hire Goods shall form a distinct Contract, which shall be separate to any other contract relating to other Hire Goods.
- 2.6. We may revise these Terms as they apply to Your Order from time to time to reflect changes in relevant laws and regulatory requirements and changes to how we accept Your order or payment terms.
- 2.7. Any variation to these Terms (including any special terms and conditions agreed between the parties) and any representations about the Hire Goods shall have no effect unless expressly agreed in writing and signed by an authorised representative of the Company.
- 2.8. Any quotation is given on the basis that no Contract will come into existence until the Company acknowledges the Order. Any quotation is valid for a period of thirty (30) days from its date, provided that We have not previously withdrawn it.
- 2.9. The quantity and specification of the Hire Goods and the Hire Period shall be as set out in the Order.
- 2.10. The images of the Goods in our brochures and on Our website are for illustrative purposes only. Although We have made every effort to display the colours and Hire Goods accurately, Your Hire Goods may not be the latest design, but will be of equivalent specification.
- 2.11. Hire Goods are hired subject to them being available for hire at the time required by the Customer. The Company will not be liable for any loss suffered by the Customer as a result of the Hire Goods not being available when ordered by the Customer.
- 2.12. All Contracts shall be subject to a minimum hire period of 7 days at the agreed Rental (the **"Minimum Hire Period"**).
- 2.13. In the event that the Customer is the National Health Service, it is the responsibility of such Customer to notify their technical department that the Hire Goods have been ordered and to obtain approval from such technical department before using the Hire Goods. The Company shall have no liability for any loss or damage resulting from the Customer's failure to so notify. The Company is registered by the NHS Supplies Authority under Master Indemnity Agreement Number 058.

3. PRICE AND PAYMENT

- 3.1. Unless otherwise agreed by the Company, prior to the commencement of any Hire Period, the Customer shall:
 - 3.1.1. complete a credit account application form specified by the Company which is subsequently verified to the Company's satisfaction; and
 - 3.1.2. provide the Company with an Order number, if payment is to be made by invoice.

- 3.2. The Customer shall pay:
- 3.2.1. the Rental; and
 - 3.2.2. the charges for the Services as quoted to the Customer from time to time.
- 3.3. At the Company's sole discretion the Rental or any applicable charges shown in the Company's price list may (with prior notice to the Customer) be increased, unless the Company has agreed to a specific pricing agreement with the Customer. The Company may also require an initial payment on account of the Rental in advance of the Customer hiring the Hire Goods.
- 3.4. Unless otherwise agreed in writing:
- 3.4.1. the Rental, charges for any Services and/or any other sums payable under the Contract is due within 30 days of the date of invoice;
 - 3.4.2. the Customer will be invoiced by the Company on a monthly basis;
 - 3.4.3. the Rental and/or charges for Services shall be exclusive of Delivery, insurance and any applicable VAT for which the Customer shall pay at the then prevailing rate. Failure by the Customer to refer any query regarding any invoice to the Company within 30 days of the date of invoice, will result in such invoice being deemed to be correct
- 3.5. Time for payment shall be of the essence. This means that if You do not pay Us the Rental or other sums due to Us when you are supposed to as set out in Clause 3.4.1, We may terminate the Contract and arrange for collection of the Hire Goods or suspend the Services with immediate effect until you have paid Us the outstanding amounts (except where you dispute an invoice). We will contact you to tell you this.
- 3.6. No payment shall be deemed to have been received until the Company has received either cash or cleared funds.
- 3.7. The Customer shall pay all sums due to the Company under the Contract without any set-off, deduction and/or any other withholding of monies on the grounds of a counterclaim.
- 3.8. The Company may set a reasonable credit limit for the Customer. The Company reserves the right to terminate or suspend the Contract for hire of the Hire Goods and/or the provision of Services if allowing it to continue would result in the Customer exceeding its credit limit or the credit limit is already exceeded.

4. RISK, OWNERSHIP AND INSURANCE

- 4.1. The Hire Goods shall at all times remain the property of the Company, and You shall have no right, title or interest in or to the Hire Goods (save the right to possession and use of the Hire Goods subject to these Terms).
- 4.2. The risk of loss, theft, damage or destruction of the Hire Goods shall pass to You on Delivery. The Hire Goods shall remain at Your sole risk during the Hire Period and any further term during which the Hire Goods are in Your possession, custody or control (**Risk Period**) until such time as the Hire Goods are redelivered to the Company.
- 4.3. During the Hire Period and the Risk Period, You shall, at Your own expense, obtain and maintain insurance for the Hire Goods to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as We may from time to time specify in writing; and insurance for such amounts as a prudent owner or operator of the Hire Goods would insure for, or such amount as We may from time to time reasonably specify. The proceeds of any such insurance shall be held by the Customer in trust for the Company and be paid to the Company on demand. The Customer must not compromise any claim in respect of the Hire Goods and/or any associated insurance without the Company's written consent.

5. DELIVERY, COLLECTION AND SERVICES

- 5.1. We shall despatch and install the Hire Goods at the Premises on the date specified by Us (**Delivery Date**). We shall use our reasonable endeavours to despatch and collect the Hire Goods as soon as possible following the respective commencement or termination of the Contract but any Delivery Date is an estimate only. We shall have no liability for failure to deliver and install the Hire Goods on the Delivery Date.
- 5.2. To facilitate Delivery and installation, You shall, at Your expense, provide all necessary instructions, documents, licences and authorisations required for the Hire Goods and any facilities, access, suitable working conditions and adequate and appropriate equipment and manual labour for loading and unloading the Hire Goods at the Premises to enable Delivery and installation to be carried out. We are unable to move or assist in the movement of patients or individuals from / to the Goods.
- 5.3. The Company shall, at your expense, install the Hire Goods at the Premises. You shall ensure that You or Your representative is present at the installation of the Hire Goods. Acceptance by You or such representative of installation shall constitute conclusive evidence that You have examined the Hire Goods and found it to be in good condition, complete and fit in every way for the purpose for which it is intended. You or Your duly authorised representative will be required to sign a receipt confirming such acceptance.
- 5.4. If for any reason You or Your representative will not accept Delivery of any of the Hire Goods when they are ready for Delivery, or the courier is unable to deliver the Hire Goods on time because You have not provided appropriate instructions, documents, licences or authorisations, the Hire Goods will be deemed to have been delivered and any appropriate Delivery charge incurred.
- 5.5. The Company reserves the right to make deliveries/and or provide services by instalments and to render a separate invoice in respect of each such instalment.
- 5.6. Any liability of the Company for non-Delivery of the Hire Goods shall be limited to replacing the Hire Goods within a reasonable time or issuing a credit note at the pro rata Rental against any invoice raised for such Hire Goods.
- 5.7. Where the Company provides Services:
 - 5.7.1. the persons performing the Services are servants of the Customer and once the Customer instructs such person they are under the direction and control of the Customer. The Customer shall be solely responsible for any instruction, guidance and/or advice given by the Customer to any such person and for any damage which occurs as a result of such persons following the Customer's instructions, guidance and/or advice except to the extent that the persons performing the Services are negligent; and
 - 5.7.2. the Customer will allow and/or procure sufficient access to and from the Premises and procure sufficient unloading space, facilities, equipment and access to power supplies and utilities for the Company's employees, sub-contractors and/or agents to allow them to carry out the Services. The Customer will ensure that the Premises are cleared and prepared before the Services are due to commence.
- 5.8. If any Services are delayed, postponed and/or are cancelled due to the Customer failing to comply with its obligations under these Terms, the Customer will be liable to pay the Company's additional standard charges from time to time for such delay, postponement and/or cancellation except where the Customer is a consumer or the delay is due to an Event Outside Our Control.

6. CARE OF HIRE GOODS

- 6.1. The Customer shall:

- 6.1.1. be provided with a user manual and instructions for the use and maintenance of the Hire Goods;
 - 6.1.2. not remove any labels from, make any additions or attachments to and/or interfere with or make any alterations to the Hire Goods, their working mechanisms or any other parts of them and take reasonable care of the Hire Goods and only use them for their proper purpose in a safe and correct manner in accordance with any operating and/or safety instructions provided or supplied to the Customer.
 - 6.1.3. notify Us immediately after any breakdown, loss and/or damage to the Hire Goods;
 - 6.1.4. take adequate and proper measures to protect the Hire Goods from theft, damage and/or other risks;
 - 6.1.5. notify Us of any change of its address and upon Our request provide details of the location of the Hire Goods;
 - 6.1.6. permit the Company at all reasonable times to inspect the Hire Goods including procuring access to any property where the Hire Goods are situated;
 - 6.1.7. keep the Hire Goods at all times in its possession and control and not to remove the Hire Goods from the United Kingdom without Our the prior written consent;
 - 6.1.8. be responsible for the conduct and cost of any testing, examinations and/or checks in relation to the Hire Goods required by any legislation, best practice and/or operating instructions unless the Company has agreed to provide them as part of any Services;
 - 6.1.9. not do or omit to do any thing, which will or may be deemed to invalidate any policy of insurance related to the Hire Goods, which is notified to the Customer;
 - 6.1.10. not continue to use Hire Goods where they have been damaged and will notify Us immediately if the Hire Goods are involved in an accident resulting in damage to the Hire Goods, other property and/or injury to any person;
 - 6.1.11. where the Hire Goods require electricity ensure that the proper type and/or voltage is used and that where appropriate, the Hire Goods are properly installed by a qualified and competent person; and
 - 6.1.12. not permit the use of the Hire Goods for any clinical trial, test or any aspect of performance measurement or comparison without the presence of a representative of the Company who shall be entitled to examine the Hire Goods prior to any such trial, test or performance measurement or comparison and make such adjustments or repairs as may be necessary to produce the proper performance of the Hire Goods, with any such repairs or adjustments to be at the Customer's cost unless deemed otherwise by the Company.
- 6.2. The Hire Goods must be returned by the Customer in good working order and condition (fair wear and tear excepted) and in a clean condition.

7. WARRANTY, BREAKDOWN OR DAMAGE

- 7.1. We may from time to time make changes to the specification of the Hire Goods which are required to comply with any applicable safety or statutory requirements and which do not materially affect the quality or fitness for purpose of the Hire Goods.
- 7.2. Subject to Clause 7.3, during the Hire Period, We will, at our cost and convenience, carry out all routine maintenance and repairs to the Hire Goods and all repairs which are required due to fair wear and tear and/or an inherent fault in the Hire Goods.
- 7.3. You shall be responsible for all expenses, loss (including loss of Rental) and damage suffered by the Company arising from breakdown or damage to the Hire Goods due to:

- 7.3.1. Your negligence, misdirection and/or misuse of the Hire Goods;
- 7.3.2. wilful damage, abnormal storage or working conditions, accident, negligence by You or by any third party;
- 7.3.3. failure by You to operate or use the Hire Goods in accordance with the user instructions;
- 7.3.4. failure of any powers source to the Hire Goods;
- 7.3.5. any alteration or repair by You or by a third party who is not one of Our authorised repairers

Upon becoming aware of such breakdown or defect, You should notify Us immediately. Once such breakdown or damage is notified to Us, We shall at our convenience, but at Your expense, arrange for the repair of the Hire Goods.

- 7.4. Upon Our request, any defective Hire Goods must be returned to the Company for inspection.
- 7.5. The Customer shall give the Company a reasonable opportunity to remedy any matter for which the Company is liable before the Customer incurs any costs and/or expenses in remedying the matter itself. If the Customer does not do so the Company shall have no liability to the Customer.
- 7.6. The Customer must not repair or attempt to repair the Hire Goods unless authorised to do so in writing by the Company.
- 7.7. The Company shall not be liable for any damage, loss, liability, claims, costs or expenses caused or contributed to by the Customer's continued use of defective Hire Goods and/or Services after a defect has become apparent or suspected or should reasonably have become apparent to the Customer for the resultant costs, expenses and/or damages.

8. LOSS OR DAMAGE TO THE HIRE GOODS

- 8.1. If the Hire Goods are returned in damaged, unclean and/or defective state except where due to fair wear and tear and/or an inherent fault in the Hire Goods the Customer shall be liable to pay the Company for the cost of any repair and/or cleaning required to return the Hire Goods to a condition fit for re-hire and to pay the Rental, until such repairs and/or cleaning have been completed.
- 8.2. The Customer will pay to the Company the replacement cost of any Hire Goods which are lost, stolen and/or damaged beyond economic repair during the Hire Period less the amount paid to the Company under any policy of insurance taken out in accordance with these Terms.
- 8.3. The Customer shall pay the Rental for the Hire Goods up to and including the date it notifies the Company that the Hire Goods have been lost, stolen and/or damaged beyond economic repair.

9. TERMINATION BY NOTICE

- 9.1. If the Hire Period does not have a fixed duration either the Customer or the Company is entitled to terminate the Contract at any time after the expiry of the Minimum Hire Period, upon giving the other party an agreed period of notice.
- 9.2. If no period of notice has been agreed or specified either party may at any time after the expiry of the Minimum Hire Period terminate the Hire Period by giving not less than 24 hours notice to the other party.
- 9.3. Upon termination of the Contract howsoever occurring, the Customer shall immediately:

9.3.1. return the Hire Goods to the Company or make the Hire Goods available for collection by the Company as requested by the Company; and

9.3.2. pay to the Company all arrears for Rentals, charges for any Services and/or any other sums payable under the Contract

and the Company shall immediately:

9.3.3. cancel the Contract and cease to levy any further Rental charges in respect of the Hire Goods.

10. DEFAULT

10.1. If the Customer:

10.1.1. fails to make any payment to the Company when due without just cause;

10.1.2. breaches the terms of the Contract and, where the breach is capable of remedy, has not remedied the breach within 14 days of receiving notice requiring the breach to be remedied;

10.1.3. breaches any of the terms of the Contract that are not capable of remedy;

10.1.4. provides incomplete, materially inaccurate or misleading facts and/or information in connection with the Contract;

10.1.5. pledges, charges or creates any form of security over any Hire Goods, or ceases or threatens to cease to carry on business, or proposes to compound with its creditors, applies for an interim moratorium in respect of claims and/or proceedings, any distress, execution or other legal process is levied on any property of the Customer, has a Bankruptcy Petition presented against it or the Customer takes or suffers any similar action in any jurisdiction;

10.1.6. being a company, enters into voluntary or compulsory liquidation, has a receiver, administrator or administrative receiver appointed over all or any of its assets, any attachment Order is made against the Customer, any distress, execution or other legal process is levied on any property of the Customer or the Customer takes or suffers any similar action in any jurisdiction;

10.1.7. appears reasonably to the Company due to the Customer's credit rating to be financially inadequate to meet its obligations under the Contract; and/or

10.1.8. appears reasonably to the Company to be about to suffer any of the above events;

then the Company shall have the right, without prejudice to any other remedies, to exercise any or all of the rights set out in clause 10.2 below.

10.2. If any of the events set out in clause 10.1 above occurs in relation to the Customer then:

10.2.1. except where the Customer is acting as a consumer the Company may enter, without prior notice, any premises of the Customer (or premises of third parties with their consent) where Hire Goods owned by the Company may be and repossess any Hire Goods;

10.2.2. the Company may withhold the performance of any Services and cease any Services in progress under this and/or any other Contract with the Customer;

10.2.3. the Company may immediately cancel, terminate and/or suspend without liability to the Customer the Contract and/or any other contract with the Customer; and/or

- 10.2.4. where You are a business customer, all monies You owe to the Company shall immediately become due and payable.
- 10.3. Any repossession of the Hire Goods shall not affect the Company's right to recover from the Customer any monies due under the Contract and/or any damages in respect of any breach, which occurred prior to repossession of the Hire Goods.

11. LIMITATIONS OF LIABILITY

- 11.1. Nothing in these Terms limits or excludes the Company's liability for:

- 11.1.1. death or personal injury caused by our negligence;
- 11.1.2. fraud or fraudulent misrepresentation;
- 11.1.3. breach of the terms implied by section 8 of the Supply of Goods (Implied Terms) Act 1973;
- 11.1.4. defective products under the Consumer Protection Act 1987.

11.2. **If You are a business customer:**

- 11.2.1. These terms set forth the full extent of the Company's obligations and liabilities in respect of the Hire Goods and its hiring to You. In particular, there are no conditions, warranties or other terms, express or implied, including as to quality, fitness for a particular purpose or any other kind whatsoever, that are binding on the Company except as specifically stated in these Terms. Any condition, warranty or other term concerning the Hire Goods which might otherwise be implied into or incorporated within this agreement, whether by statute, common law or otherwise, is expressly excluded.
- 11.2.2. Subject to clause 11.1, we will under no circumstances whatever be liable to You, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for: any loss of profits, sales, business, or revenue; loss or corruption of data, information or software; loss of business opportunity; loss of anticipated savings; loss of goodwill; or any indirect or consequential loss.
- 11.2.3. Subject to clause 11.1, our total liability to You in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 150% of the price paid for the Hire Goods.
- 11.2.4. If the Company damages the Premises or the Customer's property during delivery, installation or in performing the Services its liability will be limited to the cost on replacement of the damaged property.

11.3. **If You are a consumer:**

- 11.3.1. If we fail to comply with these Terms, we are responsible for loss or damage You suffer that is a foreseeable result of our breach of these Terms or our negligence, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if it is an obvious consequence of our breach or if it was contemplated by You and Us at the time we entered into this contract.
- 11.3.2. We only supply the Hire Goods for domestic and private use. You agree not to use the product for any commercial, business or resale purposes, and we have no liability to You for any loss of profit, loss of business, business interruption, or loss of business opportunity.
- 11.3.3. We do not in any way exclude or limit our liability for any breach of the terms implied by section 8 of the Supply of Goods (Implied Terms) Act 1973.

12. NOTICES

- 12.1. Any notice to be given under the Contract shall either be delivered personally or sent by first class recorded delivery post or fax. The address for service of each party shall be its address stated on the Order acknowledgement or any other address for service previously notified in writing to the other party or (in the absence of any such notification) its last known place of business. A notice shall be deemed to have been served as follows:

12.1.1. if personally delivered, at the time of delivery;

12.1.2. if posted, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities; and

12.1.3. if sent by facsimile during normal business, two hours after the time of transmission.

In proving such service it shall be sufficient to prove that personal delivery was made or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authority as a prepaid first class recorded delivery letter or that the telex or facsimile (as the case may be) was transmitted to the correct number.

- 12.2. Notice may also be given by e-mail address. In proving the service of any notice by e-mail, it will be sufficient to prove that such e-mail was sent to the specified e-mail address of the addressee.

13. EVENTS OUTSIDE OUR CONTROL

- 13.1. We will not be liable or responsible for any failure to perform, or delay in performance of, any of Our obligations under these Terms that is caused by an Event Outside Our Control.

- 13.2. If an Event Outside Our Control takes place that affects the performance of Our obligations under these Terms We will contact You as soon as reasonably possible to notify You and Our obligations under these Terms will be suspended and the time for performance of Our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects Our delivery of Hire Goods to You, We will arrange a new Delivery Date with You after the Event Outside Our Control is over.

14. OTHER IMPORTANT TERMS

- 14.1. You shall not be entitled to assign the Contract or any part of it without Our prior written consent.
- 14.2. The Contract is between You and Us. No other person shall have any rights to enforce any of its terms. This shall not apply to any finance company with whom the Company has an outstanding finance agreement relating to the Hire Goods. Such finance company shall, subject to the Company's consent, have the right to enforce the Contract as if they were the Company.
- 14.3. We only use Your personal information in accordance with Our Privacy Policy. Please take the time to read our Privacy Policy, as it includes important terms which apply to you.
- 14.4. Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 14.5. If We fail to insist that You perform any of Your obligations under these Terms, or if We do not enforce Our rights against You, or if We delay in doing so, that will not mean that We have waived Our rights against You and will not mean that You do not have to comply with those obligations. If We do waive a default by You, We will only do so in writing, and that will not mean that We will automatically waive any later default by You.
- 14.6. **If You are a consumer**, these Terms are governed by English law. We both agree that the English courts shall have exclusive jurisdiction to settle any dispute or claim. However, if You

are a resident of Northern Ireland You may also bring proceedings in Northern Ireland, and if You are a resident of Scotland, You may also bring proceedings in Scotland.

- 14.7. **If You are a business**, these Terms and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by English law. We both irrevocably agree that the English courts shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with a Contract or its subject matter or formation (including non-contractual disputes or claims).